

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-111

December 3, 1999

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

ORDER DESIGNATING
STANDARD OFFER
PROVIDER AND REJECTING
CERTAIN BIDS (CMP)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we: (1) designate Energy Atlantic (EA) as the standard offer provider for residential/small non-residential customers in the Central Maine Power Company (CMP) service territory for a 2-year period (March 1, 2000 – February 28, 2002) at a standard offer price of \$0.04089/kWh; (2) reject the bids received to provide standard offer service to CMP's medium and large non-residential customers, and (3) set the standard offer price for CMP's medium and large non-residential customers at \$0.04089/kWh.

II. BACKGROUND

During its 1997 session, the Legislature enacted comprehensive legislation to restructure Maine's electric utility industry. P.L. 1997, ch. 316 (codified at 35-A M.R.S.A. §§ 3201-3217). That legislation provides that all electricity consumers in Maine will have the right to purchase generation services from competitive electricity providers beginning March 1, 2000. The Legislature recognized that, at least initially, not all consumers would want or be able to obtain generation services from the competitive market. Accordingly, the Legislature required standard offer service to be available for all electricity consumers who do not otherwise obtain service from the competitive market. 35-A M.R.S.A. § 3212. The Legislature decided that the providers of standard offer service would be chosen by the Commission through a bid process and directed the Commission to promulgate rules to govern the bid and selection process.

Through Orders issued April 22, 1998 and June 29, 1999, the Commission adopted Chapter 301 of its rules. Chapter 301 governs standard offer service and the provider selection process. Docket Nos. 97-739, 98-576. Pursuant to Chapter 301, there is a separate bid process for each utility service territory. Within each territory, bidders may bid on three separate customer classes (residential and small non-residential, medium non-residential, and large non-residential). Bidders are required to commit to a fixed price for a 12-month period and must post security to ensure they are financially capable of providing standard offer service at their stated price.

Consistent with the provisions in Chapter 301, on August 2, 1999, the Commission issued three RFBs: one each to provide standard offer service to customers of CMP, Bangor Hydro-Electric Company (BHE), and Maine Public Service Company (MPS). On October 1, 1999 the Commission received proposals in response to the RFBs. The proposals were reviewed by the Commission, its staff and a consultant retained to assist with the process.

On October 25, 1999, the Commission issued an Order that rejected the bids received for the service territories of CMP and BHE, terminated that RFB process, and initiated a new selection process for standard offer providers for CMP and BHE customers. On October 26, 1999, a letter was sent to all bidders in the initial RFB process and to all bidders in the concurrent utility RFB processes for the sale of each utility's generation entitlements pursuant to Chapter 307 of the Commission's rules. The October 26 letter explained the new bidding and selection process and invited the bidders' participation.

On November 8, 1999, the Commission received proposals in response to the new solicitation. The proposals were reviewed by the Commission, its staff and consultant. The results of this review for the CMP¹ service territory are described below.²

III. DECISION

A. Residential/Small Non-Residential Class

We designate Energy Atlantic (EA) as the standard offer provider for the entire residential/small non-residential standard offer class in CMP's service territory. EA's bid price will result in the lowest cost standard offer service for this class from among the bids received. Acceptance of additional, higher bids for a portion of this class to further the objective of obtaining at least three standard offer providers for the CMP service territory would violate the rate impact test contained in section 8(C)(4) of Chapter 301. EA's bid price and, thus, the resulting price for standard offer service in this class is \$0.04089/kWh.

EA submitted its \$0.04089/kWh bid price for either one or two years. We accept the 2-year proposal. Based on the results of our standard offer solicitations and our observations of the New England power market, \$0.04089/kWh appears to be an attractive retail price. By accepting EA's 2-year proposal, we remove the risk that market conditions could cause the second-year standard offer price for the CMP residential/small non-residential class to be substantially higher. If the opposite condition prevails and market prices are lower, marketers can offer prices lower than

¹ In a separate order issued today we determine the results for BHE.

² Because contracts and other arrangements must still be completed, we are not at this time releasing information about non-winning bids. We intend to do so after the contracts and other arrangements are finalized which should occur in about two weeks.

the standard offer price, providing consumers with the benefit of lower market costs. Thus, in light of the uncertainty over future prices, our view is that the public interest is best served by the certainty and stability of the 2-year bid.

Section 7 of Chapter 301 provides that the duration of the initial standard offer period will be one year. However, section 10 of the rule allows us, where good cause exists, to waive any requirement not required by statute, provided that the waiver is not inconsistent with the purposes of the Chapter or restructuring statute. The purpose of the standard offer statute and rule is to procure generation service from the market at a reasonable price for all customers that, for whatever reasons, do not obtain service from a competitive supplier. By accepting the 2-year competitively-procured bid price, we ensure a reasonably priced standard offer for a second year and remove the risk of high rates that could occur to the detriment of customers. For these reasons, we find that good cause exists, and a waiver allowing acceptance of the 2-year bid is not inconsistent with the purposes of the Chapter or the rule. Accordingly, we waive all requirements of Chapter 301 necessary to accept the 2-year bid.

EA has already obtained from the Commission a license to provide standard offer service. Consistent with our standard offer RFB, EA must execute the standard offer contract with CMP and furnish the required financial security instrument within two weeks of the date of this Order.

EA's standard offer proposal was made contingent upon acceptance of a companion proposal made by Engage Energy US, L.P. (Engage)³ to purchase the entitlements to capacity and energy from CMP's undivested generation assets and contracts. These entitlements are concurrently in the process of being sold by CMP pursuant to Chapter 307 of the Commission's rules.⁴ Engage will presumably use these entitlements, at least in part, to supply EA with capacity and energy to provide standard offer service. In a separate order issued today in CMP's Chapter 307 proceeding, Docket No. 99-764, we direct CMP to execute contracts with Engage consistent with the EA/Engage combined proposal.⁵

B. Medium and Large Non-Residential Standard Offer Classes

We reject the bids received for the medium and large non-residential standard offer classes in CMP's service territory. Bids received for these classes pursuant to the new selection process were non-conforming, and are rejected on that basis. Pursuant to Chapter 301, § 8(D), standard offer service will be provided to

³ Engage is a joint venture of Coastal Corporation and Westcoast Energy Inc. (both established energy companies) and is not a corporate affiliate of EA.

⁴ Standard offer and Chapter 307 entitlement contingent proposals were invited pursuant to our October 25, 1999 Order and October 26, 1999 letter to bidders.

⁵ As described in the Docket No. 99-764 Order, the Engage bid for CMP's Chapter 307 entitlements yields a value for the entitlements that is very close to the highest value that would have occurred on a stand-alone basis.

customers in these classes by CMP using power procured through the wholesale market. We will meet with CMP at the earliest possible opportunity to discuss the process by which it will procure power supply.

Having rejected the bids for the medium and large non-residential classes, we must administratively set the standard offer price customers in these classes will pay for standard offer service. Ch. 301, § 8(D)(3). We set the price at \$0.04089/kWh for both classes, which is the same as the price obtained for the CMP residential/small non-residential class through our competitive bid process. We will re-examine the prices when CMP has procured the power supply necessary to provide the service, or when we can make a reasonable estimate of CMP's cost for that supply. If the standard offer prices paid by medium and large non-residential customers are substantially lower than CMP's costs to provide standard offer service, we may increase the standard offer price to reflect costs more closely so that large deferrals are avoided and the prices marketers have to compete with are not artificially low. However, to provide predictability for marketers that must compete with the standard offer price, we will not reduce the medium or large non-residential class standard offer price for the 12-month standard offer period. To the extent the standard offer price is higher than CMP's cost of service, the difference will be returned to consumers through future ratemaking adjustments.

We have chosen to administratively set the price for the medium and large non-residential classes, subject to change only as discussed above, because we believe it is important that both customers and competitive providers know the standard offer prices by early December. We have set the standard offer price for the medium and large non-residential classes equal to the residential/small non-residential price, which is a market determined price. Because of traditional cost-based factors, such as line losses and customer load shapes, prices for medium and large non-residential customers are typically not higher than the prices paid by residential and small non-residential customers. However, in this case, the market did not produce such prices for the medium and large non-residential standard offer classes. Therefore, as noted above, we will set the prices for these classes equal to the market-based price for the residential/small non-residential class, and will re-examine the prices when the costs of the underlying wholesale power supply are better known.

Dated at Augusta, Maine, this 3rd day of December, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.